THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.28813 of 1997

Date:21.03.2007

Between:

M.Ranga Swamy

.. PETITIONER

AND

Agricultural Market Committee and others.

..RESPONDENTS

ORDER:

The petitioner is a coconut merchant, having his business in Kurnool Town. He purchases coconut from various places in Tamilnadu and Karnataka and sells them to the purchasers at his shop. His grievance is that the Market Committees en route in the Districts of Chittoor, Ananthapur and Kurnool are collecting market fee on the coconuts though neither any sale nor any purchase has taken place in their notified areas. He has furnished various instances of the collection of market fee and alleged that the fee was collected on the threat of detention of the vehicles.

On behalf of the second respondent, a counter-affidavit is filed. It is stated that the petitioner paid the market fee on his own accord and no coercive steps were taken.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

The obligation to pay the market fee would arise only when a transaction of sale or purchase takes place in the notified area of a market committee. The market fee cannot be levied on the agricultural produce, which is simply transported across the notified area. It was so held by this court in several judgments

rendered by Division Benches and learned Single Judges.

To the extent the petitioner seeks a declaration that the respondents herein cannot levy market fee on the agricultural produce i.e. coconuts, which are transported without undertaking sale or purchase in the notified areas, there cannot be any difficulty. However, it is difficult to grant the relief of refund of market fee collected from the petitioner. The reason is that if the petitioner has paid the market fee voluntarily, the respondents cannot be found fault with for receiving it. There is nothing on record to disclose that the market fee was forcibly collected or that the petitioner made a protest in the procedure known to law.

For the foregoing reasons, the writ petition is disposed of, directing that the petitioner shall not be required to pay the market fee on the coconuts purchased by him from outside the State when it is being transported through various notified areas unless any sale or purchase takes place in that particular notified area. There shall be no order as to costs.

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21.03.2007

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